

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

DATATERN, INC.

Plaintiff,

v.

STAPLES, INC., et al.

Defendants.

CIVIL NO. 2:10-CV-00133-(TJW)

JURY TRIAL DEMANDED

ORDER OF DISMISSAL WITH PREJUDICE

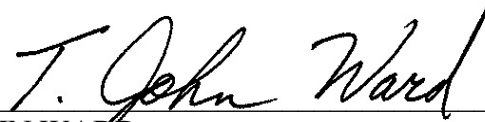
Plaintiff DataTern, Inc. and Defendants Bank of New York Mellon Corporation, Eagle Investment Systems, LLC, and Pershing, LLC, filed their Agreed Motion for Dismissal with Prejudice of Bank of New York Mellon Corporation, Eagle Investment Systems, LLC and Pershing, LLC on January 5, 2011. The Court is of the opinion that the Motion should be GRANTED.

IT IS THEREFORE ORDERED that all claims in this suit asserted by Plaintiff DataTern, Inc. against Defendants Bank of New York Mellon Corporation, Eagle Investment Systems, LLC, and Pershing, LLC are hereby dismissed with prejudice, subject to the terms of that certain agreement entitled "SETTLEMENT AGREEMENT" executed on December 29, 2010.

IT IS FURTHER ORDERED that all counterclaims asserted by Defendants Bank of New York Mellon Corporation, Eagle Investment Systems, LLC, and Pershing, LLC against Plaintiff DataTern, Inc. are dismissed as moot, subject to the terms of that certain agreement entitled "SETTLEMENT AGREEMENT" executed on December 29, 2010.

IT IS FURTHER ORDERED that each party shall bear its own attorneys' fees and costs.

SIGNED this 20th day of January, 2011.

A handwritten signature in black ink, reading "T. John Ward". The signature is written in a cursive style with a large, stylized "T" and "W".

T. JOHN WARD
UNITED STATES DISTRICT JUDGE